IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

OP.No. 4027 of 2003(D)

PETITIONER:

MATHEW THOMAS, S/O.ISSAC THOMAS,
VADANKANDATHIL HOUSE, THALAYOLAPARAMBU,
KOTTAYAM DISTRICT.

BY ADV. SRI.T.A.SHAJI

RESPONDENTS:

1. THE DISTRICT COLLECTOR, KOTTAYAM.

2. THALAYOLAPARAMBU GRAMA PANCHAYATH,
REPRESENTED BY ITS SECRETARY,
THALAYOLAPARAMBU, KOTTAYAM DISTRICT.

3. SAJI JACOB, MALAKEEL HOUSE,
PALAKUZHA P.O., KOOTHATTUKULAM,
ERNAKULAM DISTRICT.

4. STATE OF KERALA, REPRESENTED BY
THE CHIEF SECRETARY TO GOVERNMENT,
THIRUVANANTHAPURAM.

BY ADV. SMT. K.R. DEEPA, GOVERNMENT PLEADER
SRI.T.K.MOHAMMED SHARAFUDHEERN
SMT.C.I.MUMTAZ
SRI.P.A.AZIZ
SRI.MATHEW SKARIA
SRI.K.J.JOSEMON

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 21/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON C.M.P NO. 7027/2003 IN O.P. NO. 4027/2003

CLOSED

21.06.2007 SD/- KURIAN JOSEPH, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: TRUE COPY OF THE AGREEMENT DATED 18.02.1981 EXECUTED BETWEEN THE PETITIONER'S FATHER WITH THE BROTHER OF THE 3RD RESPONDENT.

EXT.P2: TRUE COPY OF THE CONSENT LETTER ISSUED BY THE FATHER OF THE PETITIONER ON 30.01.1985.

EXT.P3: TRUE COPY OF THE ORDER NO. A2-730/2002 DATED 05.12.2002 OF THE 2ND RESPONDENT.

EXT.P4: TRUE COPY OF THE JUDGMENT DATED 12.12.2002 IN O.P. NO. 37444/2002 OF THIS HON'BLE COURT.

EXT.P5: TRUE COPY OF THE ARGUMENT NOTE SUBMITTED BY THE PETITIONER.

EXT.P6: TRUE COPY OF THE ORDER NO. M2-47099/2002 DATED 27.01.2003 OF THE 1ST RESPONDENT.

EXT.P7: TRUE COPY OF THE PHOTOGRAPHS OF THE BUILDING.

EXT.P8: TRUE COPY OF THE FIR NO. 217/2001

EXT.P9: TRUE COPY OF THE WRITTEN OBJECTION FILED BY THE PETITIONER.

RESPONDENTS' EXHIBITS

EXT.R3(a): TRUE COPY OF THE ASSESSMENT ORDER.

EXT.R3(b): TRUE COPY OF THE DEMAND NOTICE

EXT.R3(c): TRUE COPY OF THE NOTICE

EXT.R3(d): TRUE COPY OF THE NOTICE.

EXT.R3(e): TRUE COPY OF THE RECEIPT DATED 17.04.89.

EXT.R3(f): TRUE COPY OF THE RECEIPT DATED 22.06.89.

EXT.R3(g): TRUE COPY OF THE RECEIPT DTD. 30.09.1989.

EXT.R3(h): TRUE COPY OF THE RECEIPT DATED 22.12.89

EXT.R3 (i): TRUE COPY OF THE LICENSE BY THE EXECUTIVE OFFICER.

EXT.R3(j): TRUE COPY OF THE OBJECTION LETTER DATED 17.10.2002 OF THE PETITIONER TO THE SECRETARY OF THE 2ND RESPONDENT.

EXT.R3(k): TRUE COPY OF THE NOTICE DATED 25.10.2002

EXT.R3(l): TRUE COPY OF THE WRITTEN SUBMISSION FILED BY THE 3RD RESPONDENT.

EXT.R3(m): TRUE COPY OF THE PLAN APPROVED BY THE EXECUTIVE ENGINEER.

EXT.R3(n): TRUE COPY OF THE PHOTOGRAPH SHOWING THE FRONT PORTION OF THE THEATRE.

EXT.R3(o): TRUE COPY OF THE NOTICE ISSUED BY THE ASSISTANT ENGINEER, PWD TO THE PETITIONER'S FATHER.

EXT.R3(P): PHOTO COPY OF THE LETTER DTD. 13.12.2002 SENT BY THE 3RD RESPONDENT TO THE PETITIONER.

EXT. R3(P)1: PHOTO COPY OF THE DEMAND DRAFT DTD. 13.12.2002 FOR RS.25,000/-

EXT.R3(Q): PHOTO COPY OF THE LETTER DTD. 06.02.2002 SENT BY THE 3RD RESPONDENT TO THE PETITIONER.

EXT.R3(Q)2: PHOTO COPY OF THE CHEQUE DTD. 05.02.2003 FOR RS. 2200/-

/True Copy/

P.A to Judge.

KURIAN JOSEPH , J

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O.P. NO. 4027 OF 2003

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Dated this the 21st day of June, 2007.

JUDGMENT

The grievance of the petitioner is with regard to the renewal of licence given to the 3rd respondent to run a cinema theatre. The District Collecter passed Ext.P6 order. Since under Section 12, the Government is vested with the revisional powers and in view of the disputed facts involved, I am of the view that the matter is to be considered further by the Government with notice to the parties. Accordingly, the writ petition is disposed of as follows:

There will be a direction to the government in the concerned administrative department to look into the matter with notice to the petitioner and the 3rd respondent after calling for records from the 1st respondent and pass appropriate orders, in accordance with law, within a period of three months from the date of production of this judgment. It is open to the petitioners and 3rd respondent to produce a copy of this judgment and also to file appropriate representation so as to facilitate the process.

KURIAN JOSEPH, JUDGE.

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